



AUDIT POLICY UPDATE

53 Disclosures Under Audit Policy, Including 13 Settled Cases

To date, 53 companies have come forward and disclosed environmental violations to EPA under the interim and final Audit/Self-Policing Policies. Of the 53 companies, EPA has settled cases with 13 companies and is in the process of negotiating the remaining cases. In the 13 settled cases, EPA waived all penalties against 12 companies and greatly reduced the penalties for 1 company.

Companies Receiving Audit Policy Relief:

Austin Sculpture, Pharr, TX
Auto Trim, Inc., Brownsville, TX
Bortec Industrial, El Paso, TX
Gobar Systems, Brownsville, TX
Invacare, McAllen, TX
Lambda Electronics, McAllen, TX
Magnatek, Brownsville, TX
Midwestern Machinery, Minneapolis, MN
Norton Company, Stevensville, TX
TRW Vehicle Safety Systems, McAllen, TX
TRW Automotive Product Remanu., McAllen, TX
Teccor Electronics, Brownsville, TX
Thomson Saginaw Ball Screw, Saginaw, MI

The final Audit Policy was announced on December 22, 1995 as part of the Clinton Administration's Reinvention of Environmental Regulation. Under the final Audit Policy, EPA will greatly reduce -- and may waive completely -- penalties for companies that voluntarily disclose and fix violations discovered through environmental audits or compliance management programs.

Penalty Waiver in Minnesota PCB Case

A 48-year-old Minnesota company that refurbishes business equipment voluntarily discovered and corrected violations involving improper storage

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and use of Polychlorinated Biphenyls (PCBs) contained in business equipment it purchased. PCBs, regulated under the Toxic Substances Control Act, are persistent bioaccumulators which cause birth defects, hormonal disruptions, and possibly cancer in humans and animals.

In correcting the violation, the company properly disposed of over 195 lbs. of PCBs contained in 65 large capacitors that were being unsafely stored. The Audit Policy made it possible to reduce the original penalty amount of \$15,000 to zero.

Substantial Penalty Reduction in Michigan TRI Case

A Michigan manufacturer of precision metal parts for airplanes voluntarily discovered and corrected its failure to file Toxic Release Inventory (TRI) reports required under the Emergency Planning and Community Right-to-Know Act (EPCRA). The TRI reports provide information to communities and the public about toxic releases to the environment which in turn has been an impetus for industry to dramatically reduce toxic releases. Local communities and citizens have the right to know this information to make decisions affecting their lives and families. The Audit Policy made it possible to reduce Thomson's original penalty from \$60,797 to \$5,000.

As part of the settlement, Thomson performed a Supplemental Environmental Project (SEP) which involved the replacement of 2500 lbs. of solvents with a safe water-based process. Another required SEP will eliminate the use of over 7000 lbs. per year of other toxic chemicals.

Penalty Waiver in 11 Texas Hazardous Waste Cases

The remaining settled cases involve 11 Texas companies that operate facilities in the Maquiladora (U.S. Border) region in Mexico. These

companies had violated the transport manifest provisions of the Resource,

Conservation, and Recovery Act (RCRA), e.g., failure to include an accurate EPA identification number for the hazardous waste, generator, or transporter on the manifest forms. The manifest forms are critical for tracking hazardous waste to help ensure its proper treatment, recycling and disposal and to prevent uncontrolled release of these dangerous chemicals which can cause serious harm to public health and the environment.

The companies came forward after EPA Region 6 presented the interim audit policy at the Reynosa Maquiladora Association Annual Environmental Forum in July 1995. Thereafter EPA waived all penalties for all of the companies under the audit policy. Normally, settlements for these types of violations range from \$20,000 to \$45,000.

Audit Policy Docket Contains Wealth of Information

EPA established the Audit Policy Docket to make information related to the EPA audit policies and environmental auditing publicly available. In addition to hundreds of letters and other documents, the Docket contains over 300 comments that can be obtained by calling 202-260-7548 or faxing 202-260-4400 and referencing docket number C-94-01.

EPA Contacts for Making Disclosures

Regulated entities that wish to take advantage of the Policy should contact the appropriate EPA Region:

- Region 1 (New England): 617-565-3441
- Region 2 (NJ,NY): 212-637-5039
- Region 3 (mid-atlantic): 215-597-7265
- Region 4 (south,SE): 404-347-3555
- Region 5 (IL,IN,MI,MN,OH,WI):312-886-9296
- Region 6 (AR,LA,NM,OK,TX):214-665-2210
- Region 7 (IA,KS,MO,NE): 913-551-7281
- Region 8 (CO,MT,ND,SD,UT,WY):303-294-7583
- Region 9 (AZ,CA,HI,NV): 415-744-1364
- Region 10 (AK,ID,OR,WA): 206-553-1073

Audit Policy Update is published periodically by EPA-OECA to provide information to the public and regulated community regarding developments under the EPA Audit Policy.

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Audit Policy Provides Significant Incentives to Discover, Disclose and Correct Environmental Violations

Under the final Audit/Self-Policing Policy, EPA will not seek gravity-based penalties and will not recommend criminal prosecution for companies that meet the requirements of the Policy. Gravity-based penalties represent the "seriousness" or "punitive" portion of penalties over and above the portion representing the economic gain from non-compliance. The Policy requires companies:

- * to promptly disclose and correct violations,
- * to prevent recurrence of the violation, and
- * to remedy any environmental harm

The Policy excludes:

- * repeated violations,
- * violations that result in serious actual harm, and
- * violations that may present an imminent and substantial endangerment

Corporations remain criminally liable for violations resulting from conscious disregard of their legal duties, and individuals remain liable for criminal wrongdoing. EPA retains discretion to recover the economic benefit gained as a result on noncompliance, so that companies will not be able to obtain an economic advantage over their competitors by delaying investment in compliance. Companies that do not discover violations through an audit or CMS, yet meet all of the other Policy conditions, will receive 75% mitigation of gravity-based penalties.

The Final Audit/Self-Policing Policy was published in the Federal Register on December 22, 1996 (60 FR 66706). It took effect on January 22, 1996. For further information, contact the Audit Policy Docket or call 202-564-4187.

EPA to Shortly Issue Q&As

EPA plans to issue a Question and Answer document on the Final Audit/Self-Policing Policy by the end of May 1996. The Q&A document will be available in the Audit Policy Docket.